IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No. 4 of 1997

DATE OF DECISION: 13.11.2007

Commissioner of Income-tax, Patiala

…Applicant

Versus

Prithipal Singh

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Yogesh Putney, Advocate,
for the applicant-revenue.

M.M. KUMAR, J.

The Income Tax Appellate Tribunal, Delhi Bench 'B' Delhi, (for brevity, 'the Tribunal'), by exercising its power under Section 256(1) of the Income-tax Act, 1961 (for brevity, 'the Act') has referred the following question of law, which is stated to have emerged from order dated 22.8.1995, in I.T.A. No. 1565(Del)/1991, in respect of assessment year 1981-82:-

> "Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that no addition could be made in the hands of the assessee (partner) where cash credit entries were found recorded in the duplicate books of the firm when entries were admittedly made at the instance of the assessee (partner).
> "

Brief facts of the case as emerged from the statement of the case drawn by the Tribunal are that a search was conducted at the premises of the assessee as well as premises of firm M/sPhagwara Cloth Shop. A duplicate ledger was seized containing the following entry at page 20 of the ledger:-

"Shri Begga Sahib	Rs. 1,75,000/-)	
	Rs. 15,000/-)	30.6.80
	Rs. 10,000/-)	
Interest	Rs. 10,000/-	
Balance	Rs. 8,000/-"	

The partner of the firm, namely, Shri Rachhpal Singh stated before the Assessing Officer that the aforementioned entries were made at the instance of the assessee. Thereafter, the assessee explained that the amount was received from M/s Munna Lal & Co. However, on inquiry it was found by the Assessing Officer that Shri Munna Lal never resided at the given address nor the assessee could produce said Shri Munna Lal before the Assessing Officer. It was further found that Shri Munna Lal was not keeping any books of accounts and for assessment year 1981-82 he had not shown any receipt of interest of Rs. 10,000/- from the assessee. Accordingly, the Assessing Officer made addition of Rs. 2,00,000/- as income from undisclosed sources in the hands of the assessee.

On appeal preferred by the assessee, CIT (A) deleted the addition holding that the entries were found recorded in the books of accounts belonging to M/s Phagwara Cloth Shop and, thus, addition for the same cannot be made in the hands of the assessee.

Further appeal filed by the revenue was dismissed by the Tribunal affirming the views of the CIT (A) by holding that if the credit entry in the books belonging to the firm M/s Phagwara Cloth Shop remained unexplained, it was to be considered in the case of the firm itself.

After hearing learned counsel for the revenue and perusing the record we find that no question of law much less any substantial question arises for our determination. Both the CIT (A) as well as the Tribunal have given finding of fact after perusing the record that the entries were recorded in the books of accounts belonging to M/s Phagwara Cloth Shop and, thus, addition for the same cannot be made in the hands of the assessee. We see no reasons to interfere with the aforementioned finding. Accordingly, the question of law sought to be raised by the revenue is answered against the revenue and in favour of the assessee.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

November 13, 2007
Pkapoor